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Amendment
Attorney Docket No. S63.2R-9396-US02

REMARKS

This Amendment is in response to the Office Action dated March 25, 2004. Each issue in the official action is discussed in detail below.

§103 Rejections

Claims 1-3, 5, 7, 10-14, 16 and 18 were rejected under 35 USC §103(a) as being unpatentable over U.S. 5944726 to Blaeser et al. in view of U.S. 5445646 to Euteneuer et al. It is asserted in the official action that Blaeser et al. discloses a stent delivery system comprising a catheter 10, the stent delivery system having a stent mounting region, the stent mounting region have an inflatable portion 14; a stent 18 disposed about the stent mounting region; a first and second stent retaining sleeve 36, 38 having first and second ends, the first end being attached to the stent delivery catheter (Column 3 lines 60-67) the first and second stent retaining sleeve disposed about at least a portion of the stent in the unexpanded position (FIGS. 3-7), the first and second stent retaining sleeves being constructed and arranged to retract toward the attached first end when the stent is expanded (FIGS. 3-5), thereby shortening the distance between the first and second ends of the first and second stent retaining sleeves. It is asserted that Blaeser discloses the claimed invention except for the first and second stent retaining sleeves covering substantially the entire stent in the unexpanded position. However, it is further asserted in the official action that Euteneuer teaches that the proximal and distal retaining sleeves overlap to form a seal and protect the stent from bodily fluids during delivery (Column 3 lines 17-22, Column 6 lines 44-48) and it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Blaeser with the overlapping stent retaining sleeves in order to provide a seal between the sleeves to protect the stent from being exposed to bodily fluids while it is being delivered.

The rejection fails because, among other reasons, including those offered in Applicant's prior response, the asserted motivation cited in the action is flawed. Further, the alteration of the Blaeser et al. device, as suggested in the action, goes directly against the specific teachings found in Blaeser et al. As mentioned above, the cited motivation to make the combination, as outlined in the rejection, is "to provide the device of Blaeser with the overlapping stent retaining sleeves in order to provide a seal between the sleeves to protect the

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stent from being exposed to bodily fluids while it is being delivered.” In support of this, column 3, lines 17-22, and column 6, lines 44-48, are cited. This is a misinterpretation of the teachings cited. The cited teachings do not say that the “seal” is created to protect the stent from fluid, but rather the plurality of water soluble bands or the swelling band(s), which dissolve when exposed to the fluid to release the stent. The presently claimed invention does not utilize bands or swelling bands. As such, motivation to make the asserted combination is lacking and only in hindsight of Applicant’s application would such a combination be made.

Additionally, as mentioned above, the alteration of the Blaeser et al. device, as suggested in the official action, goes directly against the specific teachings found in Blaeser et al. At column 3, lines 66-67, it is specifically stated that “[t]he sleeves overlap the marginal end portions of stent 18 as shown.” This is best shown in figures 8-10. To extend the sleeves to substantially cover the entire stent would be in direct contradiction with the very clear teachings of Blaeser et al. To create a seal with extended sleeves to protect the stent from body fluid, as the rejection suggests as a motivation, is nonsensical because it attempts to introduce a problem which doesn’t exist. The stent delivery catheter of Blaeser et al. is already designed to be introduced into a blood vessel and the exposure of stent to blood does not have the releasing effect that it has in Euteneuer et al. One skilled in the art would not be motivated by the teachings of Euteneuer et al. to make the asserted combination because, among other reasons, the device of Blaeser et al. does not have soluble bands or swelling bands which need to be protected from fluids until the release of the stent, as taught in Euteneuer et al. The rejection applies individual elements from multiple references and combines them without proper motivation and against the direct teachings of the references. As such, the rejection fails and withdrawal of the rejection is therefore requested.

The dependent claims are not made obvious for further reasons, but the reasons discussed above are enough to overcome the rejections.

Claims 4 and 15 were rejected under 35 USC §103(a) as being unpatentable over U.S. 5944726 to Blaeser et al. in view of U.S. 5445646 to Euteneuer et al., as applied in paragraph 2, further in view of U.S. 6168617 to Blaeser et al.

Since claims 4 and 15 are dependent upon claim 1 and since the present rejection

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relies on the combination of references as set forth in paragraph 2, among other reasons, the present rejection similarly fails and withdrawal of the rejection is requested. It should, however, be noted that the existence of openings in the sleeves, as required by claims 4 and 15, would be in conflict with the cited motivation in the rejection to create a seal to protect the stent from fluid.

Claims 6 and 17 were rejected under 35 USC §103(a) as being unpatentable over U.S. 5944726 to Blaeser et al. in view of U.S. 5445646 to Euteneuer et al., as applied in paragraph 2, further in view of U.S. 5919170 to Woessner.

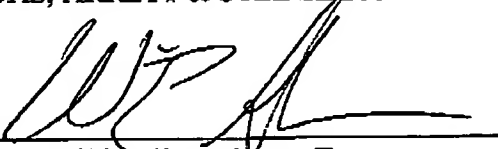
Since claims 6 and 17 are dependent upon claim 1 and since the present rejection relies on the combination of references as set forth in paragraph 2, among other reasons, the present rejection similarly fails and withdrawal of the rejection is requested.

The application is now believed to be in condition for allowance. If any further issues arise, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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